



California Fair Political Practices Commission

March 15, 1989

Honorable James V. Singley
Councilmember
22795 Barton Road
Grand Terrace, California 92324-5295

Re: Your Request for Advice
Our File No. A-89-083

Dear Councilmember Singley:

This is in response to your request for advice regarding application of the conflict of interest provisions of the Political Reform Act (the "Act")^{1/} to the city's review and approval of a contract for law enforcement services. This letter confirms the telephone advice I provided to you on March 14, 1989.

Our advice is limited to laws included in the Political Reform Act. Please consult your city attorney or county counsel regarding other provisions of law that might apply and in particular as regards Government Code Section 1090 which prohibits a public official from having a financial interest in a contract.

QUESTION

May a councilmember who is also an employee of the sheriff's department participate in contract negotiations between the city and the sheriff's department?

CONCLUSION

Under the Act, a council member who is also an employee of the sheriff's department may participate in contract negotiations between the city and the sheriff's department.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

FACTS

The City of Grand Terrace contracts with the San Bernardino County Sheriff's Department for law enforcement services. The city council must review and approve the sheriff's contract for law enforcement services on an annual basis. The city does not control the salaries of sheriff's employees. The contract only relates to the amount or level of law enforcement services provided.

You are a councilmember for the city and are also employed with the sheriff's department as a sheriff's flight sergeant assigned to the sheriff's aviation division. Your position with the sheriff's aviation division is not affected by the contract for law enforcement services.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or using his official position to influence any governmental decision in which he knows or has reason to know he has a financial interest. A member of the city council is a public official. (Section 82048; Regulation 18700(a), copy enclosed.)

An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or any member of his or her immediate family or on:

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred and fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103(c).

The effect of a decision is material if any person, including a business entity, which has been a source of income to the official of \$250 or more in the preceding 12 months is directly involved in a decision before the official's agency. (Regulation 18702.1(a), copy enclosed.)

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The term "income" is defined in Section 82030. Section 82030 provides in pertinent part that income does not include:

Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency...

(Section 82030(b)(2).)

Pursuant to the above statutory provisions, any income you receive from the sheriff's department would not make the sheriff's department a potentially disqualifying source of income to you under Section 87103(c), supra. Therefore, although during the contract negotiations the sheriff's department will be directly before the city council, your salary as a sheriff's flight sergeant is not grounds for disqualification under the Act. (In re Moore (1977) 3 FPPC Ops. 33; Darcy Advice Letter, No. I-87-296; Boomer Advice Letter, No. I-88-291, copies enclosed.)

Should you have any questions or should you want to discuss the matter further, do not hesitate to call me at (916) 322-5901.

Very truly yours,

Diane M. Griffiths
General Counsel

By: Blanca M. Breeze
Counsel, Legal Division

DMG:BMB:aa

Enclosures



February 2, 1989

BYRON R. MATTESON
Mayor

BARBARA PFENNIGHAUSEN
Mayor Pro Tem

Council Members
HUGH J. GRANT
DENNIS L. EVANS
SUSAN CRAWFORD

THOMAS J. SCHWAB
City Manager

Fair Political Practices Commission
P. O. Box 807
Sacramento, CA 95804

Gentlemen/Ladies:

I was recently appointed to fill a vacant City Council position with the City of Grand Terrace. I am requesting a ruling from your Commission as to what position I must take regarding a possible conflict of interest issue.

I am employed as a Sheriff's Flight Sergeant and assigned to the Sheriff's Aviation Division. The City of Grand Terrace contracts with the San Bernardino County Sheriff's Department for law enforcement services and, the City Council must review and approve the Sheriff's contract for law enforcement services on an annual basis. The City has no say in what the salaries of any Sheriff's employee is, and the contract only deals with the amount or level of law enforcement services provided. In no way is my position with the Sheriff's Aviation Division affected by the contract for the law enforcement services from the Sheriff's Department for the City of Grand Terrace.

I am requesting a ruling from the Commission as to whether I can participate in the upcoming contract negotiations with the City and the Sheriff's Department or whether I must abstain from this issue.

Thank you for your consideration of this issue and your prompt response.

Sincerely,

James V. Singley
Council Member

JVS:bt

CC: Thomas Schwab, City Manager
John Harper, City Attorney



California Fair Political Practices Commission

February 7, 1989

James V. Singley
Councilmember
City of Grand Terrace
22795 Barton Road
Grand Terrace, CA 92324-5295

Re: Letter No. 89-083

Dear Mr. Singley:

Your letter requesting advice under the Political Reform Act was received on February 6, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Blanca Breeze an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329.))

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
General Counsel

DMG:ld

cc: Thomas Schwab, City Manager
John Harper, City Attorney